



HIGH COURT OF AUSTRALIA

Public Information Officer

6 February, 2003

STATE OF NEW SOUTH WALES v ANGELO LEPORE AND ANOR

VIVIAN CHRISTINA SAMIN v STATE OF QUEENSLAND, THE MINISTER FOR
EDUCATION OF QUEENSLAND AND WILLIAM THEODORE D'ARCY

SHEREE ANNE RICH v STATE OF QUEENSLAND, THE MINISTER FOR EDUCATION
OF QUEENSLAND AND WILLIAM THEODORE D'ARCY

State education authorities will not generally be held liable for the sexual abuse of pupils by teachers unless there has been shown to be fault on the part of the authorities, the High Court of Australia held today.

The Lepore appeal, from a decision of the New South Wales Court of Appeal, and the Rich and Samin appeals, from a decision of the Queensland Court of Appeal, were heard together by the Court. Each case involved alleged abuse by a primary teacher on school premises during school hours. The teacher in the Queensland cases is serving a jail sentence for sexual offences committed at a one-teacher school in the 1960s.

The cases raise the issue of liability of education authorities for damage suffered by pupils even when there is no fault on the part of such authorities, such as negligence in their engagement and supervision of staff, in their systems or procedures, or in a failure to respond to complaints of misconduct.

A majority of the NSW Court of Appeal had held that a state school authority had a legal obligation to ensure pupils were not physically injured by a teacher on school premises during school hours, whether that teacher is acting negligently or intentionally, and whether or not the authority was therefore at fault. The Queensland Court of Appeal disagreed with this approach. By majority, the High Court has overruled the decision of the NSW Court of Appeal.

The High Court, by majority, held that education authorities were vicariously liable for acts performed in the course of teachers' employment, but that sexual abuse was generally too far removed from a teacher's duties to be regarded as occurring in the course of their employment.

The High Court allowed in part the appeal from NSW and ordered a new District Court trial for Mr Lepore's case, because of the way the original trial was dealt with. The Court dismissed Ms Samin and Ms Rich's appeals.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*